

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

DAVID ELMO CURRY,

Defendant.

Case No. 1:21-CR-2053-SAB-1

CRIMINAL MINUTES

DATE: DECEMBER 5, 2023

LOCATION: YAKIMA, WA

JURY TRIAL – DAY TWO

Chief Judge Stanley A. Bastian		
Michelle Fox Courtroom Deputy	02 Law Clerk	Marilynn McMartin Court Reporter
Michael Murphy Government Counsel	Craig Webster Juliana Van Wingerden Defense Counsel	

☒ **Open Court**

☐ **Chambers**

☐ **Telecon/Video**

Defendant Curry present and out of custody of U.S. Marshal.

Court provides draft jury instructions to counsel.

M. Murphy indicates that a proposed instruction was filed this morning.

Jury reconvenes: 8:37 am

Court welcomes the jury.

Shannon Hart is sworn in and questioned by M. Murphy. Exh. 6, 7, 8, 12 shown.

8:43 am – C. Webster cross examines witness. Exh. 7 shown.

Witness excused at 8:48 am.

Dan McDonald is sworn in and questioned by M. Murphy. Exh. 13, 105, 106, 107, 108 shown.

☐ **ORDER FORTHCOMING**

CONVENED: 8:30 A.M. 10:25 A.M. 1:30 P.M. 3:45 P.M.	ADJOURNED: 9:55 A.M. 12:02 P.M. 3:19 P.M. 4:27 P.M.	TIME: 1 HR. 25 MIN. 1 HR. 37 MIN. 1 HR. 49 MIN. 42 MIN TOTAL: 5 HRS. 33 MIN.	CALENDARED [X]
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9:08 am – C. Webster cross examines witness. Exh. 104 shown.

M. Murphy objects. Court overrules objection but reminds counsel to not speculate. Email says what is says.

Exh. 104, 105 shown.

9:36 am – Redirect. Exh. 105 shown.

C. Webster objects – relevance. Court asks to respond. M. Murphy responds. Court will allow.

Exh. 13 shown.

Witness excused at 9:44 am.

Josiah Hanks is sworn in and questioned by M. Murphy. Exh. 6, 9, 10, 12, 11 shown. Witness marks items in the envelope (Exh. 11) as 11-1, 11-2, 11-3.

9:54 am – C. Webster cross examines witness.

Witness excused at 9:55 am.

Recess: 9:55 am – 10:25 am

William Dramis is sworn in and questioned by M. Murphy. Exh. 15, 16, 17, 14 shown.

C. Webster objects – speculation. Court overrules objection.

Exh. 19, 18, 19, 20, 21, 22, 23, 24, 22 shown.

Jury excused for lunch: 12:00 pm

Recess: 12:02 pm – 1:30 pm

C. Webster asks the plan for today. Court will finish testimony today and then handle jury instructions. M. Murphy states Dramis is the last witness.

C. Webster would like time to speak to his client once the government rests.

Court suggests sending the jury home once government rests so jury instructions can be finalized. Tomorrow morning will be closing arguments.

Jury reconvenes: 1:40 pm

Court addresses the jury.

William Dramis retakes the stand. Direct continues by M. Murphy. Exh. 20, 22, 110 shown. C. Webster objects – Exhibit not admitted, redacted exhibit is the correct one. Side bar conducted. Court sustains objection. Exh. 110, page 65 shown.

2:01 pm – C. Webster cross examines witness. Exh. 102, 103, 110, 101, 110 shown.

2:53 pm – Redirect by M. Murphy. Exh. 22 shown.

Witness excused at 2:59 pm.

Side bar conducted to discuss schedule.

Court addresses jury.

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Government Rests.

Jury recess: 3:00 pm

C. Webster presents argument on Rule 29 Motion to Dismiss as to Count 1 and Count 2.

Court addresses counsel on where to begin argument. M. Murphy presents argument against Motion to Dismiss. Court questions counsel. M. Murphy responds and continues argument. Court questions counsel. M. Murphy responds and continues argument. **Court DENIES Rule 29 Motion to Dismiss.**

Court will give defense until tomorrow morning to determine if defendant will testify.

Jury reconvenes: 3:15 pm

Court addresses the jury. Jury will be released for the day. Jury will reconvene tomorrow at 9:00 am.

Jury recess for the day: 3:18 pm

Court will take a recess and then will discuss the jury instructions.

Recess: 3:19 pm – 3:45 pm

Court discusses jury instructions. 22, 23, 24, 25, 26 and 27 – these instructions have edits. These instructions are proposed by defendant. Government proposed an additional instruction this morning, the Court will instruct the jury and add this one. No. 3 will be if defendant did or did not testify.

M. Murphy does not object to 22. Object to 23, 24, 25. Object to entrapment instruction. Court questions counsel. M. Murphy continues argument on entrapment instruction.

C. Webster objects to proposed instruction by government. Court questions counsel and suggests a couple of changes. C. Webster states that the changes address the concerns as long as entrapment is given. If entrapment is not given, then object to this instruction.

Court asks M. Murphy if the changes are agreement. M. Murphy responds and do not object to the changes.

C. Webster addresses Instructions 13 and 14. Court wants to address entrapment. C. Webster presents argument on entrapment. Court questions counsel. C. Webster responds and continues argument.

C. Webster addresses Instruction 22. Court states the government did not object to this instruction. C. Webster presents argument on definitions. Instructions 10-12 objections argued. Court responds. C. Webster does not want to confuse the jury.

Court addresses Instructions 12 and 10. M. Murphy responds. Court questions counsel. M. Murphy responds. Court addresses counsel. M. Murphy responds. Court addresses counsel.

Court addresses Instruction 11. No evidence he did it before. M. Murphy responds. Court takes out 11 but will leave in 12.

Court rules in Instructions. No. 3 will be either or and will know tomorrow. Undercover agent instruction will be given as Instruction 9A. Will not give entrapment Instruction 27. Court reads a portion of government's brief. Not give Instructions 23, 24, 25, 26. Will give Instruction 22. Court will not renumber the Instructions.

C. Webster makes a record and objects to removing the proposed jury instructions.

M. Murphy asks when to reconvene tomorrow. Court suggests 8:45 am.